

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	CASE NO.: 1:21-CR-869
	:	
Plaintiff,	:	
	:	JUDGE SOLOMON OLIVER, JR.
vs.	:	
	:	
CHELSEA PERKINS,	:	<u>DEFENDANT CHELSEA</u>
	:	<u>PERKINS' RESPONSE TO</u>
Defendant.	:	<u>GOVERNMENT'S OBJECTION</u>
	:	<u>TO DEFENSE EXPERT ZITO'S</u>
	:	<u>OPINIONS ABOUT LEGAL</u>
	:	<u>CONCLUSIONS</u>
	:	<u>(R. 164)</u>

The government has filed an objection to Dr. Zito testifying to a legal conclusion. (R. 164: Govt Objection). The defense does not intend on eliciting such testimony from Dr. Zito at trial. (See R. 99: Notice of Expert, PageID 431). On this issue, the government's written objection does not present any issue in dispute between the parties.

The government does request Dr. Zito's report be redacted. (R. 164: Govt Objection, p. 4). This is unnecessary. The defense does not intend to seek admission of Dr. Zito's report as an exhibit at trial.¹ Moreover, the written psychological expert reports, Zito's and Bender/Saathoff's, are inadmissible. *Engbreetsen v. Fairchild Aircraft Corp.*, 21 F.3d 721, 728 (6th Cir. 1994) (noting Fed. R. Evid. 702 and 703 permit "the admission of expert opinion *testimony* not opinions contained in documents prepared out of court."). The written reports rely on hearsay (police reports

¹ The report may be marked as an exhibit for identification purposes only just in case it is necessary to refresh a witness' recollection. The report, however, would not be shown to the jury.

and statements of nonparties) and do not satisfy any of the Fed. R. Evid. 803 exceptions to the prohibition on hearsay. Because the written expert reports are not admissible, the redaction of Dr. Zito's report is unnecessary.

Respectfully submitted,

/s/ Stephen C. Newman

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